

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company for verification, consolidation, and approval of costs and revenues in the transition revenue account.

Application 98-07-003  
(Filed July 1, 1998)

In the Matter of The Revenue Adjustment Proceeding (RAP) application of San Diego Gas and Electric Company (U 902-E) for approval of 1) Consolidated changes in 1999 authorized revenue and revised rate components; 2) the CTC rate component and associated headroom calculations; 3) RGTCOMA balances; 4) PX credit computations; 5) disposition of various balancing/memorandum accounts; and 6) electric revenue allocation and rate design changes.

Application 98-07-006  
(Filed July 1, 1998)

Application of Southern California Edison Company (U 338-E) to: 1) consolidate authorized rates and revenue requirements; 2) verify residual competition transition charge revenues; 3) review and dispose of amounts in various balancing and memorandum accounts; 4) verify regulatory balances transferred to the transition cost balancing account on January 1, 1998; and 5) propose rate recovery for Santa Catalina Island diesel fuel costs.

Application 98-07-026  
(Filed July 1, 1998; Petition  
for Modification filed  
January 25, 2001)

**ASSIGNED COMMISSIONER'S RULING  
REQUIRING THAT DIRECT ACCESS CONTRACTS  
AND AGREEMENTS BE SUBMITTED**

On November 7, 2001, the Commission convened a prehearing conference (PHC) in these proceedings to discuss issues related to suspending direct access as of July 1, 2001, or a date earlier than September 20, 2001. In comments to the Assigned Commissioner Ruling (ACR) issued on October 23 and at the PHC, certain parties have raised arguments regarding the impacts that an earlier suspension date might have on the contracts and agreements that the electric service providers (ESPs) have signed with their customers. In order to allow the Commission to consider the merits of the arguments, I require that the ESPs or their customers submit these contracts and agreements that were requested in the October 23<sup>rd</sup> ACR. The submission of the contracts and agreements are necessary so that the Commission can fulfill its statutory mandate in determining the effective date for suspending direct access. Failure to provide the contracts and agreements means that the Commission cannot adequately consider the merits of the arguments about potential effects on the contracts and agreements. The Commission can only make decisions based on the record before it. Without the contracts and agreements, the Commission will have no choice but to consider rejecting the arguments that are based on asserted claims about the contracts and agreements.

The contracts and agreements are also necessary to the Commission's assessment of what potential impacts, if any, suspending direct access as of an earlier date may have on direct access customers. Any party who believes that it has a contract potentially affected by an order to suspend direct access as of July 1, 2001 or a date earlier than September 20, 2001, should submit the actual

contract or agreement, along with any arguments as to the impact of such an order. A failure to submit this information for the Commission's consideration will be considered a waiver of the arguments related to the claims involving the contracts and agreements.

I recognize that certain information contained in the contracts and agreements may be confidential. Initially, I will require that a true and correct copy of each of the actual contracts and agreements be filed under seal in the Docket Office and served on Administrative Law Judge (ALJ) Robert Barnett. The ESPs and customers shall make this initial filing and service by December 3, 2001.

Parties to this proceeding may have access to these contracts and agreements after the appropriate protective order and nondisclosure agreements are in effect. Since Public Utilities Code Section 583 applies only to public utilities, Commission staff, including the Office of Ratepayer Advocates (ORA) must be subject to a different agreement. The protection afforded in the agreement involving Commission staff should be equivalent to the protection provided for in Public Utilities Code Section 583. All other parties should refer to Commissioner Lynch's ACR issued on September 19, 2001 in Application (A.) 00-11-038 et al. for samples of nondisclosure and protective agreements that may be adapted for the instant proceeding. Attached as Appendix A is a model for the Commission staff.

ORA shall work with the parties who entered into direct access contracts and agreements to develop a proposed protective order and nondisclosure agreement for Commission staff which should be submitted to ALJ Barnett by December 3. The ESPs and parties who are customers should work with other

parties and should jointly submit a proposed protective order and nondisclosure agreement that will cover parties other than Commission staff by December 11.

Following the filing of the contracts and agreements, parties may file supplemental comments to the comments they filed in response to the October 23<sup>rd</sup> ACR.

Therefore, **IT IS RULED** that:

1. By December 3, 2001, any party who believes that it has a direct access contract or agreement potentially affected by an order to suspend direct access as of July 1, 2001 or a date earlier than September 20, 2001, shall submit a true and correct copy of each of the actual contracts or agreements along with any arguments as to the impact of such an order. A failure to submit this information for the Commission's consideration will be considered a waiver of the arguments related to claims involving the contracts and agreements. Initially, the true and correct copy of each of the actual contracts or agreements shall be filed under seal with the Commission's Docket Office and served on Administrative Law Judge (ALJ) Robert Barnett.

2. Office of Ratepayer Advocates shall work with the parties who have executed direct access contracts or agreements to develop a proposed protective order and nondisclosure agreement for Commission staff, which shall be submitted to ALJ Barnett by December 3.

3. The electric service providers and customers who are parties shall work with other parties and shall jointly submit a proposed protective order and nondisclosure agreement that will cover parties other than Commission staff by December 11, 2001.

4. Parties' supplemental comments to the comments they filed in response to the October 23<sup>rd</sup> Assigned Commissioner Ruling shall be submitted by January 4, 2002.

Dated November 19, 2001, at San Francisco, California.

/s/ CARL WOOD  
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Carl W. Wood  
Assigned Commissioner

## **CERTIFICATE OF SERVICE**

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Assigned Commissioner's Ruling Requiring That Direct Access Contracts And Agreements Be Submitted on all parties of record in this proceeding or their attorneys of record.

Dated November 19, 2001, at San Francisco, California.

/s/ KRIS KELLER

Kris Keller

## **N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.

A.98-07-003 et al. CXW/k47

See CPUC Formal File for  
APPENDIX A